



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0087]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Lease and Interchange of Vehicles

AGENCY: FMCSA, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. This ICR will enable FMCSA to document the burden associated with the for-hire truck leasing regulations codified in 49 CFR part 376, “Lease and Interchange of Vehicles” and passenger carrier regulations codified at 49 CFR part 390, subpart F, “Lease and Interchange of Passenger-Carrying Commercial Motor Vehicles.” These regulations require certain for-hire motor carriers to have a formal lease when leasing equipment. The FMCSA requests approval to renew an ICR titled, “Lease and Interchange of Vehicles.”

DATES: We must receive your comments on or before **[Insert date 60 days after the date of publication of this notice in the Federal Register]**.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2018-0087 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Crystal Frederick, Compliance Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-2904; e-mail: Crystal.Frederick@dot.gov.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Transportation (Secretary) is authorized to require a motor carrier that uses commercial motor vehicles not owned by it to transport property under an arrangement with another party to make the arrangement in writing. This written lease agreement must specify its duration, the compensation to be paid by the motor carrier providing transportation subject to jurisdiction under 49 U.S.C. 14102(a), “Leased Motor Vehicles” and signed by the parties. The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR 1.87(a)(6). The Agency's regulations governing leased motor vehicles are at 49 CFR part 376.

The rules were adopted to ensure that small trucking companies were protected when they agreed to lease their equipment and drivers to larger for-hire carriers. They also ensure that the government and members of the public can determine who is

responsible for a property-carrying commercial motor vehicle. Prior to the regulations, some equipment was leased without written agreements, leading to disputes over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle. Under 49 U.S.C. 14102(a), FMCSA “may require a motor carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.”

The rules specify what must be covered in the lease, but leave open how many responsibilities must be divided. The parties to the lease determine numerous details between themselves.

Part 376 applies only to certain motor carriers in interstate commerce and only to certain leasing situations based on exemptions set forth in 49 CFR 376.11, which cross references other provisions in part 376. Section 376.11 requires that authorized carriers (a person or persons authorized to engage in the transportation of property as a motor

carrier under the provisions of 49 U.S.C. 13901 and 13902) may perform authorized transportation using equipment it does not own only when the following conditions are met: (1) There shall be a written lease granting the use of the equipment and meeting the requirements contained in 376.12; and (2) Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given; and (3) The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service.

Comments to the part 390 rulemaking on passenger carrier leasing caused FMCSA to reduce the regulatory and paperwork burden on passenger carrier vehicles in certain ways. First, vehicles exchanged between or among commonly owned and controlled motor carriers will not be required to have leases and receipts. Second, leases and receipts will not be required when passenger carriers party to a revenue pooling agreement approved by the Surface Transportation Board exchange or interchange passenger vehicles between or among themselves on routes subject to the pooling agreement. A simple statement affirming responsibility for regulatory compliance and marking the vehicle appropriately will be required for these: (1) exchanges of passenger vehicles among commonly owned and controlled motor carriers; and (2) parties to revenue pooling agreement approved by the Surface Transportation Board.

These property and passenger carrier provisions account for the burden in this information collection.

This program change increase of 527,214 estimated annual burden hours (1,136,114 proposed estimated annual burden hours - 608,900 currently approved estimated annual burden) is due to updated estimates of the number of respondents and

responses. Previous estimates were based on 2014 data. Current estimates are based on September 26, 2017, Motor Carrier Management Information System and Safety Measurement System snapshots. The data pulled for the current ICR shows an increase in the overall number of carriers since the data used in the previous ICR. The increased carriers resulted in an increase in the overall burden hours associated with this ICR.

Title: Lease and Interchange of Vehicles.

OMB Control Number: 2126-0056.

Type of Request: Renewal of currently approved collection.

Respondents: Motor carriers authorized by the Secretary to transport property and passengers that use leased equipment.

Estimated Number of Respondents: 5,213,193 [18,820 lessees (IC-1) + 18,820 lessors (IC-1) + 5,175,552 carrier representatives (IC-2)].

Estimated Time per Response: Varies from 5 to 30 minutes.

Expiration Date: August 31, 2018.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 1,136,114 hours [18,820 master lease (ICR Component 1 (IC-1)) + 62,236 standard statement (IC-1) + 13,478 master lease (ICR Component 2 (IC-2)) + 862,592 negotiation (IC-2) + 143,190 documentation (IC-2) + 0 (negligible) copying (IC-2) + 35,798 charter group notification (IC-2)].

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: April 18, 2018

Kelly Regal,
Associate Administrator for Office of
Research and Information Technology.

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